

ADMINISTRATIVE PANEL DECISION

UAB “Simoresta” v. Shang Hai Yong Hong Wen Hua Chuan Mei You Xian Gong Si (上海雍洪文化传媒有限公司), Jiang Su Wei Ju Wang Luo Ke Ji You Xian Gong Si (江苏伟橘网络科技有限公司)
Case No. D2024-0915

1. The Parties

The Complainant is UAB “Simoresta”, Lithuania, represented by Nomad Law, Lithuania.

The Respondents are Shang Hai Yong Hong Wen Hua Chuan Mei You Xian Gong Si (上海雍洪文化传媒有限公司) (“First Respondent”), China, and Jiang Su Wei Ju Wang Luo Ke Ji You Xian Gong Si (江苏伟橘网络科技有限公司), (“Second Respondent”), China.

2. The Domain Names and Registrar

The disputed domain names <iproyal.cc> and <iproyal.net> are registered with eName Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 1, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 4, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Shanghai Yonghong Culture Media Co., Ltd) and contact information in the Complaint.

The Center sent an email communication to the Complainant on March 4, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint in English regarding both Respondents on March 6, 2024.

On March 4, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreements for the disputed domain names is Chinese. On March 6, 2024, the Complainant requested English to be the language of the proceeding. On March 6, 2024, the Second Respondent sent an email communication to the Center requesting a Chinese version of the Complaint.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 1, 2024. The First Respondent sent an email communication to the Center on March 29, 2024, foreshadowing a delay in submitting a response to the Complaint. A Response (the “Response”) was filed with the Center in English on March 31, 2024. The Complainant submitted an unsolicited supplemental filing in English on April 8, 2024. The Center notified the Parties of Commencement of Panel Appointment Process on April 15, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on April 17, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant provides datacenter and residential proxy services. It holds trademark registrations for IPROYAL in multiple jurisdictions, including the following:

- European Union trademark registration number 018597947, registered on February 25, 2022 (applied for November 10, 2021), specifying services in classes 38 and 42; and
- International trademark registration number 1664810, registered on April 26, 2022, specifying services in classes 38 and 42.

The above trademark registrations remain current. The Complainant has designated additional jurisdictions in its International trademark registration.

The Complainant’s director, Mr. Karolis Toleikis, registered the domain name <iproyal.com> on November 8, 2018, and consented in writing to its use by the Complainant on September 1, 2019. The Complainant uses that domain name in connection with a website where it provides information about itself and its services. The website prominently displays a logo consisting of the IPROYAL mark alongside a crown in light blue. The Complainant authorized use of the IPROYAL trademark by IPRoyal Services LP of Canada on April 11, 2021, and by IPRoyal Services FZE LLC of the United Arab Emirates on October 6, 2021. The Complainant uploaded a Chinese version of its website on November 1, 2021. Google Analytics data provided by the Complainant appears to show that its website received over 4 million visits, including over 170,000 visits from China, during the period from August 2018 to August 2023.

The Respondents offer a residential proxy platform. The First Respondent was established on March 24, 2021 and holds Chinese trademark registration number 60783182 for IPROYAL, registered on May 21, 2022 (applied for November 22, 2021), specifying services in class 42. That trademark registration remains current. The Second Respondent is the registrant of the disputed domain name <iproyal.cc>, registered on November 17, 2022. Its Chinese name is “江苏伟橘网络科技有限公司”, which may be translated as “Jiangsu Weiju Network Technology Co., Ltd.”. The First Respondent is the registrant of the disputed domain name <iproyal.net>, registered on June 13, 2023. Its Chinese name is “上海雍洪文化传媒有限公司”, which may be translated as “Shanghai Yonghong Culture Media Co., Ltd.”. It filed trademark applications in other jurisdictions in 2023 and these are pending.

The disputed domain names <iproyal.cc> and <iproyal.net> resolve to the English and Chinese versions, respectively, of the same website, where the First Respondent offers proxy services. The website

prominently displays a logo consisting of “IPRoyal” alongside an “i” and tulip device in teal and yellow. The website offers customer support via instant messaging.

According to screenshots provided by the Complainant, on October 30, 2023 the Complainant sent a service enquiry in English to the Respondent’s website, but received no reply, and it also attempted to make a payment in USD and received the following error message: “Due to the pricing no payment method is available”.

On November 3, 2023, the Complainant sent letters to the Registrar and the Respondents’ hosting service provider requesting cancellation or suspension of the disputed domain names, and removal of the websites. On November 3 and November 29, 2023, the Complainant sent cease-and-desist letters addressed to Shanghai Yonghong Culture Media Co., Ltd (i.e., the First Respondent).

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are identical to its IPROYAL mark. The Respondents extensively use a semi-figurative logo that is very similar to the Complainant’s combined trademark. The Respondents have no rights or legitimate interests in respect of the disputed domain names. The Complainant has never granted any permission to the Respondents or any other China-based legal entity or person to use or register the trademark IPROYAL. The Respondents hold no trademark registrations for IPROYAL. The connected company Shanghai Yonghong Culture Media Co., Ltd filed three trademark applications for IPROYAL in the United States of America, the European Union, and Brazil, in 2023, but they are still pending and, in any case, this company does not hold either of the disputed domain names. The disputed domain names were registered and are being used for unfair and misleading business activities. The Respondents provide false information on providing services and about customer support centers. The activities shown on the websites are an illusion; Internet users cannot in fact buy or pay for anything. The Respondent is making use of the disputed domain names misleadingly to divert consumers. The disputed domain names were registered to prevent the Complainant from reflecting its mark in the corresponding domain names and were registered not to do business but most likely to sell to the Complainant or other persons.

In its supplemental filing, the Complainant submits that the Respondents do not hold a trademark registration for IPROYAL in China because the registration certificate annexed to the Response shows that the holder is Shanghai Yonghong Culture Media Co., Ltd. Further, a Baidu search for the keywords on the First Respondent’s website shows that the Respondents’ “iproyal” brand products are not being promoted through Baidu, whereas the top result of a Baidu search for “iproyal” is the Complainant’s website. The Complainant has serious doubts about the authenticity of the evidence annexed to the Response as the Complainant was unable to order any services through the Respondents’ websites or to receive any customer support via email. It submits that it would make sense to seek authentication of the annexes by officials or institutions.

B. Respondent

The Respondents contend that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Respondents contend that the First Respondent has legal trademark rights to IPROYAL in China. The Respondents have rights or legitimate interests in respect of the disputed domain names. “IP” is their main business while “royal” suggests a guarantee of quality. The Respondents’ logo graphics and color are completely different from the Complainant’s and does not confuse customers. The disputed domain

names are not being used in bad faith. The Respondents submit evidence of their business operations.

The Complainant has no evidence that the Respondents' primary purpose was to sell the disputed domain names. The Respondents have been actively engaged in marketing since 2021, continuously promoting their products on the Baidu Marketing and 360 Dianjing smart advertising platforms, and through the Baidu search engine. The top search result for "iproyal" in a Chinese search engine is the disputed domain name <iproyal.net>. The business activities of the Respondents are legal and authentic. The Respondents have been lawfully and exclusively engaged in business in mainland China for a long period of time and their business activities do not impact the Complainant's operations in any way.

The Complainant's application for transfer of the disputed domain names is clearly intended to expand in the Chinese market quickly by leveraging the Respondents' high visibility and reputation in that country. There is no doubt that this kind of unproductive, free-riding behavior is subjectively malicious. Therefore, the Complainant has no right to accuse the Respondents to obtain transfer of the legally-registered disputed domain names.

6. Discussion and Findings

6.1 Preliminary Issues

A. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the disputed domain names are under common control. The Complainant requests the consolidation of the Complaint against both disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The Response lists the name and contact details of both Respondents but does not otherwise address the Complainant's request for consolidation.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the Respondents have filed a joint Response and share the same contact telephone number. The disputed domain names resolve to English and Chinese versions of the same website (the language selection button on each version redirects to the other). Each website displays the same contact email address. In view of these circumstances, the Panel finds that the disputed domain names are under common control. As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

B. Language of the Proceeding

The language of the Registration Agreements for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaint and the Response were all filed in English, although some annexes are in their original Chinese version. Accordingly, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English, but will not require translation of any annexes.

C. Unsolicited Supplemental Filing

The Complainant made an unsolicited supplemental filing on April 8, 2024 after the filing of the Response.

Paragraph 10(d) of the Rules provides that “[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence”. Although paragraph 12 of the Rules empowers the Panel, in its sole discretion, to request further statements or documents from either of the Parties, this does not preclude the Panel from accepting unsolicited filings. See *Delikommat Betriebsverpflegung Gesellschaft m.b.H. v. Alexander Lehner*, WIPO Case No. [D2001-1447](#).

The Panel observes that the Complainant, in its supplemental filing, seeks to have the Response excluded for formal deficiencies (discussed below) and it also seeks to rebut the evidence annexed to the Response, including evidence of the Respondent’s trademark registration and its business operations. Most of this evidence could not have been reasonably anticipated at the time of filing the Complaint. The Respondent did not comment on the Complainant’s supplemental filing. The supplemental filing was made before the appointment of the Panel and it is not lengthy, so accepting it will not delay this proceeding. Given the Panel’s findings in section 6.2 below, accepting the Complainant’s supplemental filing without giving the Respondent an opportunity to comment on it will not cause unfairness to either Party.

Therefore, the Panel exercises its discretion to admit the Complainant’s supplemental filing and will take it into consideration in this Decision according to its relevance, materiality, and weight as part of the evidence on the record.

D. Request Not to Accept the Response

The Complainant argues in its supplemental filing that the Response should be considered as not submitted and that this Decision should be made based upon the Complaint in accordance with paragraph 5(f) of the Rules for two reasons.

Firstly, the Complainant argues that the Response was not filed by either of the Respondents. However, the Panel notes that the Response, which was filed in English, was submitted on behalf of “Shanghai Yonghong Culture Media Co., Ltd.”, which is the English translation of the First Respondent’s name. Accordingly, the Panel rejects this argument.

Secondly, the Complainant points out that the Response is not signed, contrary to paragraph 5(c)(viii) of the Rules. The Panel notes that the certification is made by a person identified only as “Bertha” without a signature. However, while Bertha’s identity and her relationship to the Respondent are unclear, it can be observed that the Response was transmitted on behalf of the Respondents from the First Respondent’s contact email address. In these circumstances, the Panel will accept the Response in order to have the most complete record possible, but it will take the lack of signed certification into account in weighing the evidence that the Response annexes.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of an IPROYAL trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain names. The only additional element in each disputed domain name is a Top-Level Domain extension (either ".cc" or ".net") which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity. Accordingly, the disputed domain names are each identical to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7 and 1.11.

Therefore, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

The evidence shows that Chinese trademark registration number 60783182 for IPROYAL, registered on May 21, 2022, specifying services in class 42 is held by "上海雍洪文化传媒有限公司", which is the First Respondent. The Second Respondent is under common control with the First Respondent (see Section 6.1A above).

The Complainant alleges that the holder of the Chinese trademark registration is not either of the Respondents. It argues that the trademark holder is "Shanghai Yonghong Culture Media Co., Ltd" and that this name is different from the transliteration of the First Respondent's name as verified by the Registrar (set out in Section 1 above). However, the Panel observes that the trademark registration sets out the holder's Chinese name and that that name is identical to the First Respondent's Chinese name as verified by the Registrar (also set out in Section 1 above). The Respondent's Chinese name and the transliteration were both notified to the Complainant by the Center on March 4, 2023. The Panel has further verified the information set out in the Chinese trademark register extract and registration certificate annexed to the Response.¹ That information, including the trademark holder's Chinese name, is also accessible in the "TM view" database, to which the Complainant made multiple references, with hyperlinks, in the Complaint. Accordingly, the Panel confirms that the Respondent holds the above Chinese trademark registration for IPROYAL.

The disputed domain names are identical to the Respondent's IPROYAL trademark, which was registered in 2022, prior to the filing of the Complaint. This circumstance would ordinarily support a finding of rights or legitimate interests in a domain name for the purposes of the second element. See [WIPO Overview 3.0](#), section 2.12.1. However, the Respondent's trademark registration will not confer rights or legitimate interests where the overall circumstances indicate that it was obtained as a pretext, primarily to prevent the Complainant's exercise of its rights under the Policy. See [WIPO Overview 3.0](#), section 2.12.2.

In the present case, the First Respondent filed the application for its trademark registration in 2021, a year before it registered the first disputed domain name (<iproyal.cc>), and in China, which is the jurisdiction in which it does business. It is agreed that the Respondent uses the IPROYAL mark on its website. The

¹ The Panel notes its general powers articulated inter alia in paragraphs 10 and 12 of the Rules and has searched the publicly available trademark database of the China National Intellectual Property Administration (www.cnipa.gov.cn) to verify the trademark register extract and registration certificate in Annex 1 to the Response. The Panel considers this process of verification useful in assessing the merits of the dispute. See [WIPO Overview 3.0](#), section 4.8.

Complainant alleges that the website is an illusion and that Internet users cannot in fact buy or pay for anything. The evidence in support of this allegation consists of an unanswered request for customer support and an error message in response to an attempt at payment. The Respondent provides evidence of invoices, the business license of the First Respondent, website analytics, screenshots of the user side of its commercial website, backend data since 2021, daily customer support chat records and transactions. The Panel sees no reason to doubt the authenticity of much of this evidence but queries the relevance of the earlier backend data, since the Internet archive contains no screenshots of the Respondent's websites prior to August 2023 (in the case of <iproyal.cc>) or January 2024 (in the case of <iproyal.net>).² The Respondent also provides the top results of a search for "IPROYAL" in the Baidu search engine, which refer to itself, whereas the Complainant provides the results of searches for the keywords on the English version of the Respondent's website, which do not refer to the Respondent. The Complainant also alleges that the disputed domain names are registered in different company names "due to bad intentions", without substantiation.

Having reviewed the evidence, the Panel is unable to conclude that it is more likely than not that the websites associated with the disputed domain names are a sham, nor that the First Respondent obtained its trademark registration as a pretext to claim rights or legitimate interests in the disputed domain names for the purposes of the Policy.

The Panel has taken note that the Parties provide identical services (i.e., residential proxies) under an identical mark (i.e., IPROYAL). The possibility that the trademarks are identical is remote, despite the fact that the first two letters ("IP") of the marks are descriptive of the Parties' services (which use IP addresses) and the additional fact that the figurative elements of their respective logos are dissimilar; at the same time the Panel notes certain similarities in the presentation of the Parties' respective websites. The Complainant emphasizes that it has used its trademark in its own domain name since as early as 2018. Nevertheless, the Parties each have trademark rights in different jurisdictions and it is not the function of a UDRP panel to weigh competing rights.

For the above reasons, based on the record, the Panel finds that the second element of the Policy has not been established.

C. Registered and Used in Bad Faith

Given the findings in Section 6.2B above, it is unnecessary for the Panel to consider the third element in paragraph 4(a) of the Policy.

D. Reverse Domain Name Hijacking

The Respondent alleges that the Complaint is subjectively malicious.

The Panel notes that the Complainant conducted a search for the Respondent's trademark rights prior to filing the Complaint but failed to locate the Respondent's Chinese trademark registration. While it linked to the "TM view" database to provide details of its own trademark registrations and applications, it searched a different database for the Respondent's trademark rights, one that did not contain the Respondent's registration but only the Respondent's pending applications. The Panel notes that the Respondent's Chinese trademark registration is included in the "TM view" database, at least at the time of this Decision.

Nevertheless, the Panel considers that the Complainant's claims were not spurious as trademark rights do not create an irrebuttable presumption of rights or legitimate interests and the Complainant documented its efforts, however limited, to obtain service from the Respondent's website in support of its allegation that the

² The Panel notes its general powers articulated inter alia in paragraphs 10 and 12 of the Rules and has searched the publicly available Internet archive (www.archive.org) to evaluate evidence of the Respondent's business operations annexed to the Response. The Panel considers this process of evaluation useful in weighing the evidence and reaching a decision on the merits. See [WIPO Overview 3.0](#), section 4.8.

services offered on that site are an illusion. The fact that the Panel has found that the second element of the Policy has not been established does not imply that it was an abuse of procedure.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: May 1, 2024